

HONORABLE JAMES L. ROBART

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION,  
  
Plaintiff,  
  
v.  
  
MOTOROLA, INC., et al.,  
  
Defendants.

No. C10-1823-JLR

MICROSOFT'S 12/15/11 MOTION TO  
FILE DOCUMENTS UNDER SEAL

**NOTED FOR:**  
**Friday, January 6, 2012**

MOTOROLA MOBILITY, INC., et al.,  
  
Plaintiffs,  
  
v.  
  
MICROSOFT CORPORATION,  
  
Defendant.

**I. RELIEF REQUESTED**

Pursuant to Local Civil Rule 5(g) and paragraphs 2(a) and 8 of the protective order entered in this case, Microsoft respectfully seeks leave to file under seal the following documents:

- (1) Limited portions of Microsoft's Motion for Partial Summary Judgment Dismissing Motorola's Claim for Injunctive Relief ("Microsoft's 12/15/11 Motion for Partial Summary Judgment");
- (2) Limited portions of the Declaration of Christopher Wion in Support of Microsoft's Motion for Partial Summary Judgment Dismissing Motorola's Claim for Injunctive Relief (the "12/15/11 Wion Declaration");
- (3) Exhibit 5 to the 12/15/11 Wion Declaration; and
- (4) Exhibit 6 to the 12/15/11 Wion Declaration.

**II. FACTS & AUTHORITY**

Microsoft's 12/15/11 Motion for Partial Summary Judgment and the 12/15/11 Wion Declaration identify and refer to certain documents produced by Motorola in the above-captioned matter that Motorola has designated as "Confidential Business Information, Attorneys' Eyes Only, Subject to Protective Order." The referenced documents designated by Motorola as confidential are attached to the 12/5/11 Wion Declaration as Exhibits 5 and 6. Under the terms of the Protective Order Regarding the Disclosure and Use of Discovery Materials entered by the Court on July 21, 2011 (ECF No. 72) (the "Protective Order"), Microsoft is required to file the above-referenced materials under seal in order to maintain the confidentiality of information that Motorola has designated as confidential.

Paragraphs 2(a) and 8 of the Protective Order govern the filing of documents under seal. Paragraph 2(a) provides:

Any information submitted in pre-trial discovery or in a pleading, motion, or response to a motion in this action...and which is asserted by a supplier to contain or constitute Confidential Business Information shall be so designated by such supplier in writing...and shall be segregated from other information

being submitted. Documents shall be clearly and prominently marked on their face with the legend: “[SUPPLIER’S NAME] CONFIDENTIAL BUSINESS INFORMATION, SUBJECT TO PROTECTIVE ORDER” or a comparable notice. During the pre-trial phase of this action, such information, whether submitted in writing or in oral testimony, shall be disclosed only *in camera* before the Court and shall be filed only under seal, pursuant to Rule 5(g) of the Local Civil Rules of the United States District Court for the Western District of Washington.

Paragraph 8 likewise provides that:

Any Confidential Business Information submitted to the Court in connection with a motion or other proceeding within the purview of this action shall be submitted under seal pursuant to paragraph 2 above.

*Id.*, at ¶ 8.

Under these provisions of the Protective Order, Microsoft is required to file under seal complete original versions of Microsoft’s 12/15/11 Motion for Partial Summary Judgment and the 12/5/11 Wion Declaration, including Exhibits 5 and 6 thereto. Microsoft also is required to file publicly accessible versions of both Microsoft’s 12/15/11 Motion for Partial Summary Judgment and the 12/15/11 Wion Declaration in which references to Motorola’s confidential documents and the confidential documents themselves (Exhibits 5 and 6 to the 12/15/11 Wion Declaration) have been redacted.

For purposes of this Motion, Microsoft is not opposing Motorola’s relevant confidentiality designations. However, nothing in this Motion is intended as a waiver of Microsoft’s right to contest these or any other of Motorola’s designations of material to be protected under the terms of the Protective Order. Microsoft expressly reserves the right to do so as the circumstances warrant.

### III. CONCLUSION

For the foregoing reasons, Microsoft respectfully requests that it be permitted to file the above-referenced materials under seal, with redacted versions of both Microsoft’s 12/15/11 Motion for Partial Summary Judgment and the 12/15/11 Wion Declaration filed in the public

1 record. A [Proposed] Order Granting Microsoft's 12/15/11 Motion to File Documents Under  
2 Seal has been submitted herewith.

3 DATED this 15<sup>th</sup> day of December, 2011.

4 DANIELSON HARRIGAN LEYH & TOLLEFSON LLP

5  
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Counsel for Microsoft Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that on December 15, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

**Attorneys for Defendants Motorola Solutions, Inc., Motorola Mobility, Inc., and General Instrument Corporation**

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/s/ Linda Bledsoe  
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